

LAW OFFICES OF  
**PARRY ANDERSON & GARDINER**  
A PROFESSIONAL CORPORATION

TODD D. WEILER

1270 EAGLE GATE TOWER  
60 EAST SOUTH TEMPLE  
SALT LAKE CITY, UTAH 84111  
TELEPHONE: (801) 521-3434  
FAX: (801) 521-3484

**RECEIVED**  
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AUG 01 2008  
8/3  
**DIV. OF OIL, GAS & MINING**

E-MAIL:  
toddweiler@parrylaw.com

July 28, 2006

Mary Ann Wright  
Utah Division of Oil, Gas & Mining  
1594 West North Temple, Suite 300  
P.O. Box 145801  
Salt Lake City, Utah 84116

Re: Mining Operations in Bluffdale City, including but not limited to:  
-Bluffdale Sand & Gravel, S/035/022;  
-T&M Holdings Mine/Decorative Landscaping, S/035/023;  
-Mark Miller, Expectation Mine, S/035/024; and  
-Worthington Landscape Mine, S/035/025.

Ms. Wright:

This letter is intended to place the DOGM on formal notice that the above-referenced parties are not in compliance with Bluffdale City's local regulations, as follows:

1. The property in question is within Bluffdale City boundaries. Despite the litigation in Case No. 040909930, the property remains subject to Bluffdale City's regulations pursuant to a stay issued by the district court in that matter.
2. The property in question is currently zoned A5, which provide for an agricultural five-acre lot minimum.
3. The property in question is General Planned for R-1-43, which is one acre minimum.
4. The A5 or R-1-43 zone does not allow any type of mining in either zone as a permitted or conditional use.
5. Section 12.1.5 of the Bluffdale City Zoning Ordinance identifies any use not consistent with any zone as illegal.
6. Section 12.2.9 identifies the existing zones within the city and ties them to the zoning map.



7. Section 12.3.2 does not allow any permit to be issued for anything that does not comply with the zoning standard.
8. Section 12.6.3.2 does not identify rock mining or any mining as permitted, conditional, or accessory use within the A5 zone.
9. Section 12.6.11.2 identifies this use as a conditional use under the SG1 zone. The above-referenced parties have never applied for a zone change.
10. Section 12.6.11.12 requires a reclamation plan under the SG1 zone.
11. Section 12.6.11.14 requires a reclamation bond under the SG1 zone.

It is our understanding that the DOGM has relied on misleading or false statements from the above-referenced parties that they are in compliance with local regulations. As demonstrated above, this is not the case. Please consider this correspondence as a formal request on behalf of Bluffdale City for DOGM to revoke its Acceptances of Notice of Intention to Commence Small Mining Operations, together with any and all other permissions or permits it has granted to the above-referenced parties, or any other party conducting mining operations within Bluffdale City.

As further support for the City's request, I am enclosing the following: (i) the City's "cease and desist" letter of April 21, 2005; (ii) the above-referenced parties' counsel's April 27, 2005 response to cease and desist letter; (iii) a staff report dated May 3, 2005 regarding an appeal of a zoning decision; and (iv) the Affidavit of Blaine Gehring, dated May 20, 2005.

I look forward to your response at your earliest convenience.

Sincerely,

PARRY ANDERSON & GARDINER

  
Todd D. Weiler, Esq.  
Counsel for Bluffdale City

cc: Steven F. Alder, Office of the Utah Attorney General,



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TELEPHONE: (801) 521-3434  
FAX: (801) 521-3484

E-MAIL:  
toddweiler@parrylaw.com

April 21, 2005

Mr. Bob Jones  
Bluffdale Sand and Gravel  
5635 Waterbury Way, Suite C-100  
Salt Lake City, UT 84121

Re: *Mining Operations at Bluffdale Sand and Gravel Quarry, S/035/022*

Dear Mr. Jones:

This letter is to notify you that you are not in compliance with Bluffdale City ordinances to recommence mining operations at the above-referenced location. Specifically, your mining operations are not in compliance with the city's current zoning regulations. You are hereby ordered to cease and desist all mining operations at the above-referenced location until further notice.

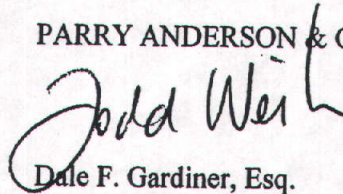
We have reviewed the Acceptance of Notice of Intention to Commence Small Mining Operations issued by Utah's Department of Natural Resources, dated April 14, 2005. Such acceptance states as follows: "We would like to remind you of certain other obligations. Approval from the Division does not constitute approval from other appropriate agencies such as Bluffdale City and the Division of Air Quality. You should insure that you are in compliance with any requirements these other agencies may have regarding such items as dust control, zoning, and haulage weight limit."

As you are not in compliance with Bluffdale City's local ordinance, you are hereby instructed to not recommence any mining operations until you have obtained a permit from Bluffdale City.

**GOVERN YOURSELF ACCORDINGLY!**

Sincerely,

PARRY ANDERSON & GARDINER



Dale F. Gardiner, Esq.  
Todd D. Weiler, Esq.

DFG/mw

cc: Steve Alder  
Mark Misch, Office of the Utah Attorney General,  
Natural Resources Division, 1594 West North Temple, Suite 300,  
Salt Lake City, UT 84116



**HUTCHINGS BAIRD & JONES PLLC**

ATTORNEYS AND COUNSELORS

9537 SOUTH 700 EAST

SALT LAKE CITY, UTAH 84070

TELEPHONE (801) 328-1400

FACSIMILE (801) 328-1444

www.hbj-law.com

April 27, 2005

Dale F. Gardiner, Esq.  
Parry Anderson & Gardiner  
60 East South Temple, #1270  
Salt Lake City, UT 84101

Via First Class Mail and Facsimile to: (801) 521-3484  
Number of Pages (no cover) 1

**Re: Agricultural Preparation Activities on Frontgate Properties  
Response to Letter of April 21, 2005**

Dear Dale:

Your above-referenced letter was received by me today as I have been out of town and/or out of the office since it was sent to my clients. As you know, it is the position of my client that it is not "mining" on the property but, instead, removing rocks to prepare the ground for permissible agricultural activities. While it is true that my client obtained a permit from DOGM for mining, after Bluffdale City reported the operations to DOGM, that does not mean that the activities on the property are "mining" in a land use sense.

I am unaware of any "cease and desist" authority that Bluffdale has in this regard. If you can point out such authority to me I would appreciate it and will discuss it with Frontgate. As you know, Frontgate has appealed the decision of the zoning administrator denying Frontgate's contention regarding the agricultural preparation nature of its activities. We stand ready to have that appeal heard by the Board of Adjustment and ask only the consideration that the hearing be scheduled on a date that has been coordinated with my availability.

I look forward to hearing from you.

Sincerely,

  
Bruce R. Baird

cc: Clients



TO: Bluffdale Board of Adjustment  
FROM: Blaine Gehring, City Planner  
DATE: May 3, 2005  
SUBJECT: Appeal of a Zoning Decision by Bluffdale Mountain Homes

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Early in July, we received complaints about the number and size of trucks hauling rocks off the south mountain area. Upon investigation, Shane Jones, the City Engineer, and I found a large excavation taking place in the foothills just south of the Jordan Valley Water Treatment plant. We saw large backhoes removing the large rocks and several large trucks being loaded. Each truck appeared to be from a different landscaping or other such business. As a result, we felt this was a rock mining/excavation business being conducted outside of the zoning ordinance. Subsequently, I sent the attached letter to the owners of the property, Bluffdale Mountain Homes, informing them of the violation and asking them to cease and desist.

Several weeks later I received both an application appealing my decision as to the land use to the Board of Adjustment. As you know, we have made several attempts to accommodate the applicant for a hearing but have had some difficulties. It is now in your hands to determine whether there is an illegal rock mining use going on or if the land is, in fact, being cleared for a legitimate agricultural use.

I have included a map of the property and excerpts from the zoning ordinance to back up my original decision. In Chapter 29 of the Zoning Ordinance, the following definitions are found:

*Agriculture:* Agriculture shall mean the growing of soil crops in the customary manner in the open. It shall not include livestock raising activities.

*Agricultural Support Facilities:* Facilities, products or services including, but not limited, the following:

- a. Storage of agricultural products
- b. Meat cutting and packaging
- c. Tree sales
- d. Reserved (amended 10/8/2002 Ord. 2002-13)
- e. Fur Farms
- f. Boarding of Animals

There is no definition given for mining under the definitions section. Under these circumstances, the ordinance specifically states: "If there is occasion to need interpretation of any word or phrase not listed below (*referring to the list of definitions in Chapter 29*), the Board of Adjustment shall provide the interpretation." (Section 12.29.2, explanation added) The only place I could find reference to "mining" or something similar in the zoning ordinance was under the list of permitted use in the Sand and Gravel Zone (SG-1) (Chapter 12.6.11). The list has "mines, quarries, gravel pits, crushers, batching plants, and other uses intended for excavation purposes" as a permitted use. I believe the last phrase "other uses intended for excavation purposes" provides a



very clear indication of what the ordinance defines as "mining." And, I submit that "mining" under that interpretation is exactly what Bluffdale Mountain Homes is doing on the property.

Most of you are aware of the trucks but I would invite you to take a drive up there to see what is happening and the extent to which it has grown since last fall.

Please be prepared to make a decision on this issue and adopt some findings of fact as to your decision.



## Chapter 12.29

### Definitions

#### 12.29.1 Purpose and Intent

#### 12.29.2 Definitions

#### 12.29.1 Purpose and Intent

The purpose for including certain definitions as part of this ordinance is to clarify meaning specific to this ordinance. Words and phrases used in the present tense include the future, singular words include the plural as well as the singular.

#### 12.29.2 Definitions

The following definitions are specific to this ordinance. If there is occasion to need interpretation of any word or phrase not listed below, the Board of Adjustment shall provide the interpretation.

1. Agriculture - Agriculture shall mean the growing of soil crops in the customary manner in the open. It shall not include livestock raising activities.
2. Apartment House - See dwelling - multi-family.
3. Agricultural Support Facilities - Facilities, products or services including, but not limited to the following:
  - a. Storage of agricultural products
  - b. Meat cutting and packaging
  - c. Tree sales
  - d. Reserved (*amended 10/8/2002 Ord. 2002-13*)
  - e. Fur Farms
  - f. Boarding of Animals
4. Batching Apartment - A dwelling unit occupied by four (4) or more unrelated individuals.
5. Boarding House - A dwelling containing not more than one kitchen where, for compensation, meals are provided pursuant to previous arrangements on a daily, weekly, or monthly basis as distinguished from a hotel, cafe, or rooming house.
6. Building - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
  - a. Building, Accessory - A subordinate building, the use of which is incidental to that of the main building.
  - b. Building, Main - One or more of the principal buildings upon a lot. Garages, carports, and other buildings which are attached to a dwelling or other main building or which are situated within 10 feet of a main building shall be considered as a part of the main building.
  - c. Building, Public - A building owned and operated or owned and intended to be operated by a public agency of the United States of America, of the State of Utah, or any of its subdivisions.
7. Build-To Line - The minimum distance a primary structure must be constructed from a property line measured to the foundation wall of the structure.
8. Carport - A structure not completely enclosed by walls for the shelter of automobiles.
9. Common Area - An area designated to serve two (2) or more dwelling units in separate ownership with convenient access to the area.
10. General Plan (Master Plan) - A coordinated plan which has been prepared and adopted for the purpose of guiding development, including but not limited to a plan or plans of land use, resources, circulation, housing, and public facilities and grounds.
11. Conditional Uses - A use which has been specifically permitted by the terms of this ordinance and which requires special consideration by the Board of Adjustment, Planning Commission, or City Council before a permit therefore may be issued.
12. Condominium - The ownership of a single unit in a multi-unit project together with an undivided interest in common in the common areas and facilities of the property.
13. Condominium Project - A plan or project whereby two or more units, together with an undivided interest in the common area or facility, are separately offered or proposed to be offered for sale. This definition shall apply to



## 12.6.11 SG-1 Sand and Gravel Zone

- 12.6.11.1 Purpose and Zone Characteristics
- 12.6.11.2 Permitted, Conditional and Accessory Uses
- 12.6.11.3 Lot Area
- 12.6.11.4 Lot Width
- 12.6.11.5 Lot Frontage
- 12.6.11.6 Setback Requirements
- 12.6.11.7 Projections into Setbacks
- 12.6.11.8 Building Height Requirements
- 12.6.11.9 Distance Between Buildings
- 12.6.11.10 Lot Coverage
- 12.6.11.11 Parking, Loading and Access
- 12.6.11.12 Reclamation
- 12.6.11.13 Project Plan Approval
- 12.6.11.14 Other Requirements

### 12.6.11.1 Purpose and Zone Characteristics

The SG-1 Sand and Gravel Zone is established to provide areas within the City for the extraction of sand, gravel, and other similar materials. The zone allows for limited commercial and service uses.

### 12.6.11.2 Permitted, Conditional and Accessory Uses

#### *Permitted Uses*

The following list of land use types are permitted uses in the SG-1 Zone. Unless specifically listed, any other use is not a permitted use in the zone. Uses listed as conditional or accessory uses are allowed in the zone only in accordance with the criteria established in this ordinance.

1. Agriculture
2. Public or private utilities and maintenance facilities

#### *Conditional Uses*

The following list of land use types are allowed as conditional uses in the SG-1 Zone. Unless specifically listed, any other use is not allowed as a conditional use in the zone. Each conditional use must be reviewed and approved in accordance with Section 12.13 of this ordinance.

1. Restaurants, food courts, and cafes (when planned as part of an research park to provide service to employees)
2. Attendant non-polluting light manufacturing, processing and testing facilities that are clearly accessory to a primary permitted use
3. Land preparation for extraction and land reclamation
4. Mines, quarries, gravel pits, crushers, batching plants, and other uses intended for excavation purposes
5. Plant nurseries
6. Public uses (*amended 10/8/2002 Ord. 2002-12 and 3/11/2003 Ord. 2003-05*)

#### *Accessory Uses*

The following list of land use types are allowed as accessory uses in the SG-1 Zone. Unless specifically listed, any other use is not allowed as an accessory use in the zone. Any accessory use must be clearly incidental to a permitted or conditional use of the property. Accessory uses are not allowed without the approval of a permitted or conditional use of the parcel unless otherwise noted in this Section.

1. Storage facilities for machinery and equipment as an accessory use to a permitted or conditional use.
2. Temporary job trailers and offices



DALE GARDINER (#1147)  
PARRY ANDERSON & GARDINER  
60 East South Temple, Suite 1200  
Salt Lake City, Utah 84111  
Telephone: (801) 521-3434

Attorneys for Plaintiff Bluffdale City

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**IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH**

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BLUFFDALE CITY, a Utah Municipal  
Corporation,

Plaintiff,

vs.

FRONT GATE et al.,

Defendants.

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:  
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:  
:  
:  
:

**AFFIDAVIT OF BLAINE GEHRING**

Civil No. \_\_\_\_\_

Judge \_\_\_\_\_

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STATE OF UTAH            )  
                                  : ss.  
COUNTY OF SUMMIT    )

I, Blaine Gehring, having been first duly sworn, hereby state as follows:

1.     I am the city planner for the City of Bluffdale, am over the age of 21, have personal knowledge of the events described herein and am otherwise competent to testify in this matter.



2. On about July 26, 2004, I notified Bluffdale Mountain Homes, LC (an entity owned and/or controlled by Bob Jones) that it must immediately cease its mining/extraction operation from the foothills in Bluffdale on property located at approximately 3301 West 15651 South, parcel numbers 3317400004 and 3317400006 in the foothills south of the Jordan Valley Conservancy District plant. See Exhibit A.

3. The specific mining/extraction operation which prompted my letter involved the removal of large, landscape boulders from the area. Several tractors, backhoes, diggers, and/or trucks were being used to haul out the excavated rocks. The activities included picking up rocks, digging up rocks, moving rocks around, and stacking them into piles according to their size, etc.

4. The subject property is located within the A-5 agricultural zone, which does not allow for mining/extraction operations either as a permitted or conditional use. Additionally, the operation constitutes a business which is operating within Bluffdale city limits without a business license.

5. On or about August 25, 2004, attorney Bruce Baird, on behalf of Bluffdale Mountain Homes, sent a letter to the city indicating that he wanted to appeal the city planning officials decision to the Board of Adjustments. He stated that the removal of rocks and boulders was preparation for permissible agricultural activity on the property. See Exhibit B. The applicant for the appeal is Bluffdale Mountain Homes. However, through correspondence with



the applicant's counsel, it appears that there are additional parties who may have an interest in the appeal including Bob Jones, Front Gate and Bluffdale Sand and Gravel.

6. On or about September 13, 2004, I informed Mr. Baird that his client's appeal would be heard at a Board of Adjustments meeting scheduled for October 14, 2004 at 7:00 p.m.

7. On or about September 16, 2004, Mr. Baird requested that the October 14<sup>th</sup> meeting be rescheduled due to a conflict.

8. On or about October 8, 2004, I informed Mr. Baird that the Board of Adjustments meeting had been rescheduled for November 18, 2004.

9. On November 18, 2004, at approximately 7:00 p.m., the Bluffdale City Board of Adjustments met and considered the Appeal of the zoning decision by Bluffdale Mountain homes regarding the removal of rocks from their property at approximately 3300 West 15450 South. The applicant was not present.

10. After reviewing Utah Code Ann. §§ 10-9-703 & -704, the Board of Adjustments discussed the facts and circumstances surrounding the Appeal and adopted the following findings of facts:

a. The land in question is not currently being used for agricultural purposes as defined in Bluffdale's ordinance. Agriculture in Bluffdale's ordinance means the growing of soil crops in the customary manner in the open.



b. The property questioned, although there has been some allegations that may have a future use as agricultural, the applicant has not demonstrated that there is an immediate or compelling future use for agricultural.

c. The applicant, is in fact, mining on the property as mining is most closely defined by our ordinance. Staff's findings show that a substantial excavation is being done on the property and removing substantial quantities of large rocks from the subject property.

d. The applicant was given notice of these proceedings. The applicant requested an extension of time, and asked that the original hearing be moved to a different date. Notice of this proceeding was, in fact, given to them by mail and they, having failed to appear, have failed to sustain their burden of proof by establishing that the property is not being used in violation of the zoning.

11. The Motion to uphold the Staff's decision was passed on a 5 to 0 vote. On the second 5 to 0 vote, the Board of Adjustments moved that the city interpret that any large scale operation of moving rocks in the significant quantity for what appeared to be the purpose of removing the rocks themselves is not an agricultural use.

12. When Mr. Baird learned that the Board of Adjustments had met without him being present, he demanded that a new meeting be scheduled so that his client's side could be presented. Although it appeared to me that Mr. Baird was engaged in nothing more than a



calculated delay tactic, the city agreed to schedule another meeting where Mr. Baird could be present.

13. On or about December 8, 2004, I informed Mr. Baird that the Board of Adjustments would meet to rehear the Appeal on Thursday, December 16, 2004 at 7:00 p.m.

14. Later, Mr. Baird and his client, Bob Jones of Front Gate Homes, was informed in writing that the Board of Adjustments will rehear the Appeal on February 24, 2005 at 7:00 p.m.

15. The Utah Division of Oil and Gas ("DOGM") shut down the operation for some time, but has recently issued a new permit. When the new permit was issued, DOGM expected the applicant to comply with city ordinances and zoning.

16. On April 6, 2005, the DOGM, granted it's final acceptance of decorative landscaping's small mining Notice of Intention and the Reclamation Surety and gave its permission to commence mining operations.

17. On or about April 14, 2005, the DOGM notified Bob Jones of Bluffdale Sand and Gravel that it had received Mr. Jones' Notice of Intent and initial permit fee concerning his "small mine," located on the property. In the Notice, after noting that the Division does not "approve" small mine Notices, of the letter states as follows: "Approval from the DOGM does not constitute approval from other appropriate agencies, such as Bluffdale City and the Division of Air Quality. You should ensure that you are in compliance with any requirements that these other agencies may have regarding such items as dust control, zoning, and haulage weight



limits." See Exhibit A. The letter also states the DOGM's understanding that Mr. Jones has, "begun work on a large mine permit."

18. On April 25, 2005, the DOGM notified Craig Worthington of Worthington Landscape that it had received its small mine Notice of Intent and that work could not commence for mining operations prior to the receipt of a Reclamation Surety and Reclamation Contract.

19. In the M.V. Reclamation contract, which was prepared by Bob Jones and submitted to the DOGM, Mr. Jones indicated that, "the operator desires to conduct mining operations." A copy is attached hereto as Exhibit B.

20. On or about April 25, 2005, the DOGM notified Mark Miller from Expectations that it had received his small mine Notice of Intent and would issue final approval as soon as the problems outlined in the letter had been resolved.

21. On or about April 21, 2005, the City of Bluffdale, acting through its counsel, hand delivered and mailed a second "cease and desist order" on Front Gate Homes, and Mr. Bob Jones regarding the mining/excavation activities on the subject property.

22. On or about April 27, 2005, Mr. Bruce Baird, acting on behalf of Mr. Bob Jones of Front Gate Homes, responded to the letter of April 22, 2005. In the letter, Mr. Baird stated, "it is the position of my client that is not "mining" on the property but, instead, removing rocks to prepare the ground for permissible agricultural activities. While it is true that my client attained



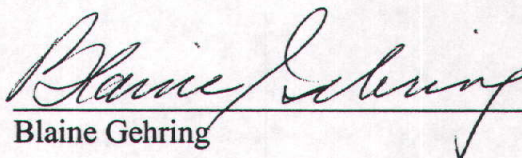
a permit from DOGM for mining . . . that does not mean that the activities are "mining" in a land-use sense.

23. On May 12, 2005, the Board of Adjustments met again and Mr. Baird was present with his clients. At the hearing, the Board determined that Mr. Baird had failed to make a timely appeal of my decision and therefore refused to reverse it.

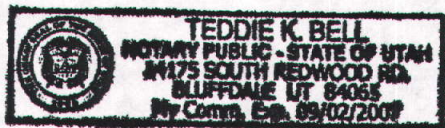
24. Despite my letter last year, a letter from the City's counsel in April, and despite the Board of Adjustment's decision on May 12, 2005, Defendants continue to engage in their unauthorized mining and extraction activities on the subject property.

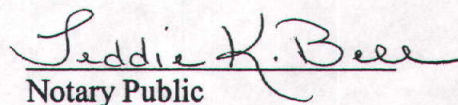
25. As a result, the city ordinances and zoning violations are continuing and on going, more and more rocks are extracted and removed, and trucks overloaded with heavy material are driving through the city on residential streets virtually on a daily basis.

DATED this 20<sup>th</sup> day of May, 2005.

  
Blaine Gehring

ACKNOWLEDGED, SUBSCRIBED AND SWORN before me on this 20 day of May, 2005.



  
Notary Public



# **EXHIBIT A**





*Dedicated to the vision of a self-sufficient rural community  
with a unique country lifestyle*

*Mayor*

**Wayne Mortimer**

*City Council*

**Craig Briggs**

**Morris Clark**

**Jesse Kelley**

**Laurie Maxfield**

**Martha Speed**

July 26, 2004

Bluffdale Mountain Homes, LC  
5635 S. Waterbury Way #C-100  
Salt Lake City, UT 84121

Dear Property Owner,

It has come to the attention of Bluffdale City that an illegal mining/extraction operation which is removing large landscape boulders from the foothills in Bluffdale is being conducted on your property located at approximately 3301 West 15651 South. The specific parcels in question are identified on the Salt Lake County records as parcel numbers 3317400004 and 3317400006 in foothills south of the Jordan Valley Water Conservancy District plant. The subject properties are located within an A-5 (Agricultural) Zone which does not allow for this type of use either as a permitted or conditional use. In addition, the operation constitutes a business which is operating within Bluffdale City limits without a business license.

As the property owner, you are liable for any violations occurring on your property. You are hereby notified that this violation must cease immediately and that further steps must be taken to restore the property to its natural state.

If you have questions regarding this notice please contact me at 254-2200.

Sincerely,

Blaine K. Gehring, AICP  
City Planner

cc: Dale Gardiner, City Attorney  
Wayne Mortimer, Mayor  
Bluffdale City Council  
Brent Bluth, Administrative Services Director

**Blaine K. Gehring, AICP**  
City Planner

14175 S. Redwood Road  
Bluffdale, UT 84065

(801) 254-2200 FAX 253-3270 [bgehring@bluffdale.com](mailto:bgehring@bluffdale.com)



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature  <input checked="" type="checkbox"/> <i>Kathy Hawkes</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)  <i>KATHY HAWKES</i></p> <p>C. Date of Delivery  <i>7-27-01</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes          If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p><i>BLUFFDALE MTN. HOMES</i>  <i>5035 S. WATERBURY WAY</i>  <i>#C-100</i>  <i>SALT LAKE CITY, UT 84121</i></p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number          (Transfer from service label)</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
		<p>7003 1680 0004 1227 7789</p>	

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

SALT LAKE CITY, UT 84121 OFFICIAL USE

Postage	\$ 0.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42

UNIT HENDERSON UT 84165  
 JUL 26 2001  
 Postman Here  
 Clerk BPHCM  
 07/26/04 9904

Sent To: *BLUFFDAL MOUNTAIN HOMES*  
 Street, Apt. No., or PO Box No. *5635 S. WATERBURY WAY #C-100*  
 City, State, ZIP+4 *SALT LAKE CITY, UT 84121*

PS Form 3800, June 2002 See Reverse for Instructions



# **EXHIBIT B**



BAIRD & JONES L.C.

ATTORNEYS AND COUNSELORS

ONE UTAH CENTER

201 SOUTH MAIN STREET, SUITE 900

SALT LAKE CITY, UTAH 84111

TELEPHONE (801) 328-1400

FACSIMILE (801) 328-1444

www.bairdjones.com

August 25, 2004

BRUCE R. BAIRD, P.C.  
MICHAEL F. JONES, P.C.

WRITER'S E-MAIL  
bbaird@bairdjones.com

Board of Adjustment  
City of Bluffdale  
14175 S Redwood Rd  
Bluffdale, Utah 84065

**Re: Parcel numbers 3317400004 and 3317400006**

To the Board of Adjustment:


This firm represents Bluffdale Mountain Homes, LC. On July 26, 2004, Mr. Gehring wrote to Bluffdale Mountain Homes, LC indicating that "an illegal mining/extraction operation which is removing large landscape boulders" was taking place on the above mentioned parcels. Mr. Gehring further indicated that the parcels were located in an Agricultural Zone and that is why the removal of boulders was not a permitted or conditional use.

Contrary to Mr. Gehring's assumption that my clients are mining, Bluffdale Mountain Homes, LC are actually preparing the property for agricultural activity. Bluffdale Mountain Homes, LC may be under contract to begin agricultural activity on the property and no agricultural activity can take place until the boulders are removed.

As you are well aware, all of the agricultural property in Bluffdale had to have preparation, such as removal of boulders, prior to agricultural activity taking place. Obviously in order to farm property large obstructions on the land, for instance rocks, must be removed prior to commencement of farming.

Therefore this office is requesting that the Board of Adjustment reverse the decision issued by the City on July 26, 2004, and allow the continued preparation of these parcels for the agricultural use they were zoned for. If you have any questions or concerns prior to when we will be heard by the Board, don't hesitate to contact me.

Sincerely,



Bruce R. Baird

cc: Clients



Receipt #1.015938  
8/30/04

Dedicated to the vision of a self-sufficient rural community with a unique country lifestyle.

**Board of Adjustment Application**

1. Payment of \$350.00 application fee.
2. Application form completed in detail and notarized and submitted no later than four weeks prior to the next scheduled Board of Adjustment meeting. (The Board meets the second Thursday of each month.)
3. If the application is for a variance, a list of the names and mailing addresses of all property owners within 1,000 feet from the perimeter boundary of the subject property along with a fee of \$.50 for each address to cover mailing and processing costs.

Date: August 25, 2004Applicant: Bluffdale Mountain Homes, LCApplicant Address: 5635 S Waterbury Way #C-100Salt Lake City, Utah 84121Phone Number: 328-1400Cell Phone: 647-1400Fax Number: 328-1444

Type of Request: (check all that apply)

☐ Variance
 ☒ Alleged Error Appeal (Interpretation of application of zoning ordinance by Staff)

(Complete the appropriate information sheet attached for the request being made)

The Bluffdale City Staff will review this application for completeness and schedule a public hearing on the first available Board of Adjustment meeting. For further details and information, please contact the Planning Department at 254-2200.

Applicant(s) Signature: \_\_\_\_\_

Attorney in fact

RECEIVED

AUG 30 2004

BLUFFDALE CITY

Received By: \_\_\_\_\_



Planning Department

Signature: \_\_\_\_\_

Blaine LoringDate: 8/30/2004

Date of next available Board of Adjustment meeting: \_\_\_\_\_

299 S Main  
Ste 1300  
Salt Lake City, UT 84111  
dp Bruce R. Bard



**Applicant Affidavit**

**PROPERTY OWNER**

STATE OF UTAH )

COUNTY OF SALT LAKE ) ss

I (we), Bluffdale Mountain Home, LC, being duly sworn, depose and say that I (we) am (are) the owner(s) of the property identified in the attached application and that the statement therein contained and the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Bruce R. Baird Attorney in fact (Property Owner)  
[Signature] (Property Owner)

Subscribed and sworn to me this 25th day of August, 20 04.

[Signature]  
 (Notary) Residing in Salt Lake County, Utah

My commission expires: 6/1/2005



**AGENT AUTHORIZATION**

I (we), Bluffdale Mountain Home, LC, the owner(s) of the real property described in the attached application, do authorize as my (our) agent(s) Bruce R. Baird to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the City considering this application, and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ (Property Owner)  
 \_\_\_\_\_ (Property Owner)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_ the signer(s) of the above agent authorization who duly acknowledge to me that they executed the same.

\_\_\_\_\_  
 (Notary)  
 Residing in Salt Lake County, Utah

My commission expires: \_\_\_\_\_